

1 JUDGE STEINBERG: Yeah. Yeah, with -- we all kind
2 of lost your Testimony underneath the pile of, of the other
3 stuff.

4 WITNESS: Okay.

5 JUDGE STEINBERG: And you talk about an April,
6 April 26, 1989, packet of updated materials. Do you see that?

7 WITNESS: Yes.

8 JUDGE STEINBERG: Is Exhibit 4, Attachment 13,
9 which Ms. Schmeltzer is showing you, is that the packet to
10 which you are referring there?

11 WITNESS: This is 4, 13 -- yes.

12 JUDGE STEINBERG: Okay. That's clarified. Okay.
13 Now, what page, Mr. Zauner?

14 MR. ZAUNER: Page 8.

15 JUDGE STEINBERG: Four -- Exhibit 4, Attachment 13,
16 page 8.

17 WITNESS: Okay.

18 MR. ZAUNER: Is this your revised Application for
19 Employment Form that you referred to in the past?

20 JUDGE STEINBERG: He hasn't got it yet. Wait a
21 minute.

22 MR. ZAUNER: Okay.

23 WITNESS: I'm just -- I'm looking it through it
24 just to --

25 MR. ZAUNER: Well, let me, let me withdraw that

1 question then --

2 JUDGE STEINBERG: No, he's looking, but he's --

3 MR. ZAUNER: Okay.

4 JUDGE STEINBERG: -- looking through the whole

5 form.

6 MR. ZAUNER: Oh, okay.

7 MS. SCHMELTZER: Is he at page 8?

8 MR. ZAUNER: Yeah, he's looking at page 8.

9 JUDGE STEINBERG: Page, page 8.

10 WITNESS: I'm looking at the entire form. As I

11 recall, yes, this is.

12 MR. ZAUNER: And, and could you tell us the page

13 numbers of that form that you revised here in the exhibit so

14 we have it for the record?

15 WITNESS: Yes. Page numbers 8, 9, 10, and 11.

16 MR. ZAUNER: Could you tell us specifically what

17 changes you made in the form to bring it into compliance with

18 the station's EEO plan as you understood it?

19 WITNESS: I believe I can if we take, take just a

20 moment to refresh my memory.

21 JUDGE STEINBERG: Okay. Do you need to look at the

22 EEO Policy in connection with that? It's 8, Attachment 5.

23 Exhibit 8, Attachment 5.

24 WITNESS: Okay.

25 (Pause.)

1 WITNESS: Okay.

2 (Pause.)

3 JUDGE STEINBERG: Let's go off the record.

4 (Off the record.)

5 (On the record.)

6 MR. ZAUNER: Okay. My question was what changes
7 did you make in the Application for Employment Form to bring
8 the -- bring that form into compliance with the station's EEO
9 policy.

10 WITNESS: I note several changes. At the, at the
11 very top of page 8, the paragraph that begins, "Discrimination
12 because of..." and ends with "...state or Federal agency." was
13 returned to the Application Form as had been stated on the
14 Equal Employment Opportunity Program for both radio stations.

15 The blank space on the Application Form previously
16 showed me where it indicated the applicant was to fill in
17 religious affiliation was eliminated from this Application
18 Form.

19 The sentence at the bottom of the previous
20 Application Form that you showed me, "Because we are a church
21 body..." starting with that and ending with "...good standing
22 of an LCMS congregation." was eliminated from this Application
23 Form.

24 On page 11 of the revised Application Form the
25 statement below the place for the date and the signature was

1 added, and as I recall that also was a part of the Equal
2 Employment Opportunity Program at that time.

3 There may have been some other minor changes, but
4 I'm not -- I don't know that those were relevant to what we're
5 talking about.

6 BY MR. ZAUNER:

7 Q Now, on April 26, 1989, you disseminated this form
8 to a number of individuals, is that not correct? I asked you
9 to look at page 1 of Attachment 13.

10 A Yes, that is correct.

11 Q Who is Bob Thompson?

12 A Bob Thompson was the -- I think he was the Sales
13 Manager at the time for the FM radio station.

14 Q And who was Ron Clemm at that time?

15 A Ron Clemm's position at that time I believe was
16 Program Director for the FM station.

17 Q And Dennis Stortz?

18 A Dennis Stortz at that time, as I recall, was the --
19 his title was Operations Manager, I believe, for the FM
20 station.

21 Q And Paula Zika?

22 A Paula -- I, I forget Paula's title. She was em-
23 ployed by both stations.

24 Q Subsequent to April 26, 1989, was the Application
25 for Employment which you prepared and which is the document

1 beginning at page 8 and running through page 11 of Attachment
2 13 to Exhibit 4 in use at the station?

3 (Pause.)

4 WITNESS: Okay. This ended where?

5 JUDGE STEINBERG: Page 11.

6 WITNESS: Page 11.

7 JUDGE STEINBERG: That's the, you know, the form
8 that you wrote --

9 WITNESS: Oh. Okay.

10 JUDGE STEINBERG: -- that you just talked about.

11 WITNESS: All right. Was this in effect after the,
12 the date of the memo?

13 MR. ZAUNER: April 26, 1989. Correct.

14 WITNESS: As I recall, these were, these were put
15 into use. I don't recall what applicants there were or
16 weren't after April 26th. So, whether they were actually used
17 at that point or not I can't say, but the intent was to put
18 them all into effect.

19 JUDGE STEINBERG: You were only there for another
20 three months anyway?

21 WITNESS: Well, right about three months, correct.

22 BY MR. ZAUNER:

23 Q Before you issued this memo -- on April 26, 1989,
24 did you discuss its contents with Mr. Devantier?

25 A Reverend Devantier and I had conversations on a

1 regular basis, so I can only presume that we did.

2 Q Did he okay the new -- use of the new Application
3 for Employment Form?

4 A To the best of my knowledge, that knowledge and in
5 keeping with what he had indicated to me previously, I recall
6 these were all put into force.

7 Q I'm sorry. I missed the last point.

8 A That these were all put in.

9 Q But did Mr. Devantier approve of the new applica-
10 tion form prior to your issuing this memo on April 26, 1989?

11 A We moved forward, so I -- I don't recall specifi-
12 cally, but I assume he did or we would not have moved forward.

13 Q Do you have any recollection of discussing your
14 specific changes in the Application for Employment Form with
15 Mr. Devantier prior to April 26, 1989?

16 A I believe we discussed those.

17 Q Did you explain to him the changes you were making
18 and the reasons for the changes?

19 A I just don't recall specific discussions. We would
20 meet periodically on a number of different topics. I know
21 that we discussed these, these materials.

22 Q You had indicated earlier in your testimony, per-
23 haps I should have asked you then rather than now, that you
24 had suggested to this -- to Reverend Devantier that perhaps
25 the stations should be separated for EEO purposes. To your

1 | knowledge, did Mr. Devantier ever do anything with regard to
2 | your suggestion?

3 | A I don't recall that anything was done either for or
4 | against that suggestion in the remaining time that I was
5 | there.

6 | Q Let, let me go back to my earlier question, which
7 | was whether you did what was necessary for the station to
8 | conform to its EEO policy. You've indicated that you revised
9 | the form and we've looked at that. What else did you do, if
10 | anything?

11 | A In terms of --

12 | Q In, in terms of bringing the stations in, into --
13 | or at least the station, since you were only the FM, into
14 | compliance with its own EEO policy.

15 | Perhaps for the sake of moving this along I'd like
16 | to call your attention to Attachment 14 to Exhibit 4.

17 | Did you -- well, first of all, let me ask you, on
18 | pages 1 through 11, there are letters, all of which bear what
19 | purports to be your signature. Is that in fact your signature
20 | at the bottom of each of those pages?

21 | A Yes.

22 | Q Did you draft that letter yourself?

23 | A I don't believe so. I think that came from the NAB
24 | guidelines reference book, I think they call it the Red Book
25 | or -- as I recall, this suggested letter form was taken from

1 | them.

2 | Q So, would it be correct to say you drafted the
3 | letter using another source of letters and, and you used the
4 | letter that was appropriate to your circumstance?

5 | A Yes.

6 | Q What was the purpose of sending these letters in
7 | July of 1989 to the various named recipients?

8 | A There was something that Mr. Liebowitz had said in
9 | the seminar portion at that fall meeting of the Missouri
10 | Broadcasters Association that led me to feel regardless of
11 | what had been done at any prior time that it was best to err
12 | on the side of making sure, and that's all I felt that we were
13 | doing there was just making sure.

14 | Q Making sure of what exactly?

15 | A That we were -- that we had in writing to these
16 | various agencies the -- what the letter states.

17 | Q What -- let's, let's begin with page 1. What made
18 | you select the Roth Young Personnel Service of St. Louis to
19 | receive a letter?

20 | A I'm not sure that I can answer that at this point.
21 | That was quite some time ago.

22 | Q Perhaps a more generic question, why did you select
23 | the sources that you did to send these letters to? Was there,
24 | was there any overshadowing reason or overarching reason?

25 | A Well, I can perhaps address some of these. The

1 station at that time, if it was hiring someone, was generally
2 hiring someone with minimal experience and therefore the
3 colleges in the area, for example, Merimac Community College,
4 which has a high -- which is part of the, of the St. Louis
5 Community College system and has a high enrollment of
6 minorities; the Broadcast Center that we've previously dis-
7 cussed; Southern Illinois University at Edwardsville, which
8 has a program in broadcasting and a significant minority
9 enrollment; and Lindenwood College, which has a good broadcast
10 school, would all be sources for qualified applicants.

11 Q Did you consider at the time sending a letter
12 requesting referrals to any organizations that were primarily
13 minority, such as the NAACP or something of that nature?

14 A I am unaware that the NAACP is an employment
15 service.

16 Q You didn't think of them as an employment service,
17 is that correct --

18 A That's correct.

19 Q -- at that time? Let me call your attention to
20 page 12 of Attachment 14 to Church Exhibit 4. I want you to
21 look at page -- it's actually beginning page 12 and going
22 through the end of that exhibit, which is page 14. Did you
23 draft this document?

24 A The "...acknowledge that I have received..." --

25 Q That is correct.

1 A -- "...a letter from..."? No, I did not draft it.
2 Again, that would have been part of the materials provided by
3 the NAB in the --

4 Q Were these --

5 A -- legal guide.

6 Q Were these acknowledgements included with the
7 letters that you sent out?

8 A As I recall I believe they were, and I think the
9 letter --

10 Q Referenced the acknowledgement?

11 A I think it -- yes. The letter references that in
12 the third paragraph: I am enclosing the reply form and ask
13 that you complete and return it to me to acknowledge receipt
14 of this letter.

15 Q These letters are dated July 18, 1989. Did they go
16 out on or about July 18, 1989?

17 A I did not mail them. I can't answer that.

18 Q Was it your understanding that they were sent out
19 around or about July 19--

20 A Yes.

21 Q -- July 18, 1989?

22 A Yes.

23 Q You were terminated in July of 1989, is that not
24 correct?

25 A Yes.

1 Q Were you terminated following these letters having
2 been sent out? Is that correct?

3 A I don't recall the, the --

4 Q The exact sequence.

5 A -- final day, I really don't. No.

6 Q Am I correct, then, that you would be unaware of
7 any follow-up that may have been conducted by the station as a
8 result of these letters having been sent out and the acknowl-
9 edgements returned?

10 A If I understood your question correctly, I would
11 not be aware subsequently. That is correct.

12 Q Let me call your attention to Attachment 15.

13 JUDGE STEINBERG: Church Exhibit 4?

14 BY MR. ZAUNER:

15 Q Of Church Exhibit 4. Were these KFUE-AM Data Forms
16 prepared by you?

17 A I prepared nothing for the AM station.

18 Q You're not familiar with this particular document?

19 A No. And if I can read the date on here, I think
20 the date indicates -- it's a little faint on this copy, but I
21 think it says 1/19/90.

22 Q Correct.

23 JUDGE STEINBERG: That's my birthday. That's
24 probably why this form was in there.

25 (Laughter.)

1 MR. ZAUNER: Let me call your attention to page 18
2 of Attachment 15, and that's an EEO Recruitment Program for
3 Station KFUO. Did you do any drafting of that document?

4 MS. SCHMELTZER: What page is that?

5 BY MR. ZAUNER:

6 Q Page -- I'm sorry -- 18, 1 8. And, again, I note
7 it's, it's dated January 17, 1990. My question is to you,
8 though, is did you construct this particular form or have
9 anything to do with its construction?

10 A I don't remember it. I, I --

11 Q You have no recollection of having anything to do
12 with the construction of this form?

13 A I don't remember if I did or didn't. I just don't
14 remember. Was it --

15 Q Let me go back now to your Testimony, which is
16 Church Exhibit 6. You say at line 19, "We had increased the
17 number of women employees and had minority representation."
18 Do you see that, about line 19 or 20 down in paragraph 4?

19 A Yes.

20 Q What do you mean by minority representation?

21 A I believe that that is referred to -- the particu-
22 lar individual that I was referring to there is referred to on
23 the preceding page, paragraph 3.

24 JUDGE STEINBERG: Ms. Perez.

25 WITNESS: Correct.

1 BY MR. ZAUNER:
2 Q Ms. Perez?
3 A Yes.
4 Q And for the record, what were the characteristics
5 of Ms. Perez's minority status?
6 A Hispanic.
7 Q What position did she hold?
8 A Sales position.
9 Q Had you been responsible for hiring Ms. Perez?
10 A I interviewed her and strongly recommended that she
11 be hired.
12 Q Who did you make your recommendation to that she be
13 hired?
14 A I believe it was, at that point, to the, to the
15 Director of Broadcast Ministries. As I recall, she was, she
16 was interviewed and hired while that position was occupied,
17 and that was the position as the FM General Manager to which I
18 reported.
19 Q Who was the Director of Broadcast Ministries at the
20 time?
21 A Ken Lombardi, that I mentioned earlier. The indi-
22 vidual that I mentioned earlier.
23 Q How were Sales people compensated at the station?
24 A As, as I remember it, there was a modest guarantee
25 for a period of time after the initial employment and that

1 | guarantee was somewhere in the neighborhood of 1800 to 1000
2 | dollars monthly. Sales person also would receive a commission
3 | on sales that their efforts generated, and I don't remember
4 | what that percentage was. It was either 15 or 20 percent,
5 | somewhere in there, of the gross sales amount. While they
6 | were within the period in which they received their monthly
7 | guarantee, any commissions that would exceed that figure they
8 | would obtain.

9 | So, for example, just to make it easy, if -- let's
10 | say it was a 10 percent commission figure. If they sold
11 | \$10,000 worth of advertising and all of that was billed in a
12 | given month, their commission for that month upon receipt of
13 | payment would have been \$1,000. And if they were in the
14 | period of the guarantee, they would have received the \$1,000
15 | rather than the guarantee amount, which was perhaps 800. And
16 | then --

17 | JUDGE STEINBERG: They wouldn't receive 1,800?

18 | WITNESS: They would not receive 1,800, no. And
19 | then -- and I don't recall at what point the cutoff was, but
20 | at some point then there was an elimination of the guarantee
21 | figure and the Sales people were expected to earn their income
22 | based on the Commission only.

23 | JUDGE STEINBERG: When you say cutoff period, you
24 | mean after they had been working a certain number of months?

25 | WITNESS: Yes. A certain period of time.

1 JUDGE STEINBERG: Then they -- a certain period of
2 time. Then the guarantee was -- then there was no guarantee
3 anymore?

4 WITNESS: Correct.

5 BY MR. ZAUNER:

6 Q You indicated that, that you had recommended this
7 woman be hired and, and she was hired, is that correct?

8 A She was hired, yes.

9 Q When you were reviewing applicants for Sales posi-
10 tions at the station, at the FM station, did you believe that
11 a preference should be given to applicants with classical
12 music training?

13 MS. SCHMELTZER: I'm sorry. I didn't quite catch
14 that question.

15 BY MR. ZAUNER: That a preference should be given
16 to applicants who had classical music training or background.

17 WITNESS: As I recall, it was listed in job de-
18 scriptions as a desirable trait. I did not take that to mean
19 a preference.

20 MR. ZAUNER: I'm sorry. I missed the last part of
21 your answer.

22 JUDGE STEINBERG: He didn't take that to mean a
23 preference.

24 MR. ZAUNER: Well, you indicated it was a desirable
25 trait. How would that work in practice if two people applied

1 for one position and one had classical music background and
2 all other things were equal?

3 JUDGE STEINBERG: Can I just interrupt you? When
4 you say "classical music background," that could mean they
5 listen to classical music records. It could mean that they
6 studied classical music. It could mean that they, that they
7 played the clarinet classically or the violin. If, if you
8 change it to knowledge of classical music --

9 MR. ZAUNER: Okay. Let, let --

10 JUDGE STEINBERG: -- I think that would sharpen the
11 question.

12 MR. ZAUNER: I think I will, I will take your
13 advice, Your Honor. Let me rephrase the question. If two
14 people applied for one job and all other things being equal
15 but one had classical music knowledge, would you give that
16 applicant a preference in your hiring decision?

17 MS. SCHMELTZER: I'm going to object because it
18 calls for speculation on the part of the witness. It's not
19 tied to any particular job.

20 JUDGE STEINBERG: Do you want to reform it or
21 modify it?

22 MR. ZAUNER: Yes, Your Honor.

23 JUDGE STEINBERG: Did that situation ever occur?

24 MR. ZAUNER: Let me first ask you the question the
25 Presiding Judge just asked. Did that situation ever occur

1 | where you had two people who were equally situated except one
2 | had classical music knowledge and the other didn't?

3 | WITNESS: Not that I recall. In fact, we were
4 | fortunate in many cases to have an applicant under the basis
5 | of the payment schedule that I just indicated.

6 | MR. ZAUNER: When you say that the, the station's
7 | policy indicated that such a trait was desirable, is that
8 | correct?

9 | WITNESS: As I recall, that was a part of the job
10 | description at the time that I arrived, yes.

11 | JUDGE STEINBERG: To the best of your recollection,
12 | what did the job descriptions say about that?

13 | WITNESS: To the best of my recollection, it simply
14 | said that some knowledge of classical music would be
15 | desirable.

16 | MR. ZAUNER: Your Honor, I, I am close to the end.
17 | I would like to have a minute or two to consult with my asso-
18 | ciate on, on one other potential matter for examination.

19 | JUDGE STEINBERG: We'll go off the record.

20 | (Whereupon, off the record at 1:12 p.m. Back on the
21 | record at 1:16 p.m.)

22 | MR. ZAUNER: Mr. Lauher, did any of the people that
23 | you hire as -- for Sales positions at KFYO-FM have classical
24 | music knowledge?

25 | WITNESS: I don't know.

1 MS. SCHMELTZER: Objection. Do you want to lay a
2 foundation that he did hire all these people?

3 MR. ZAUNER: Did, did you --

4 JUDGE STEINBERG: Well, he said he didn't know, so
5 -- why don't you -- if you want to probe that, go back and do
6 the foundation --

7 MR. ZAUNER: Okay.

8 JUDGE STEINBERG: -- or ask about Ms. Perez specif-
9 ically.

10 MR. ZAUNER: Okay. During your time as General
11 Manager of KFUE-FM, how many people did you hire for Sales
12 positions? Do you recall?

13 MR. GOTTFRIED: When you say "you," do you mean Mr.
14 Lauher personally?

15 MR. ZAUNER: Mr., Mr. Lauher personally. Or, if
16 you didn't hire them personally, how many did you recommend to
17 be hired who were eventually hired?

18 WITNESS: I would recommend. I, I did not hire.
19 Three Sales people, perhaps four. Three that I recall.

20 MR. ZAUNER: You recommended three persons be hired
21 who were eventually hired for Sales positions?

22 WITNESS: Yes.

23 MR. ZAUNER: To your knowledge, did any of those
24 three have knowledge of classical music?

25 WITNESS: I have no knowledge if they did or did

1 not.

2 MR. ZAUNER: Am I correct then that was --

3 JUDGE STEINBERG: Is one of those Charlotte Aiken?

4 WITNESS: Yes.

5 JUDGE STEINBERG: And specifically with respect to
6 her, do you -- Mr. Zauner's question.

7 MR. ZAUNER: Did she have classical music
8 knowledge?

9 WITNESS: I don't know.

10 EXAMINATION

11 BY JUDGE STEINBERG:

12 Q And we've got Tom Koon, K O O N?

13 A I don't know.

14 Q Ms. Perez? Do you know?

15 A I don't recall if she did or didn't.

16 Q Bob Thompson?

17 A We're getting -- moving out of --

18 Q Well, these date of hires are showing as October
19 '88, so he would have been there when you were there. Did you
20 recommend that he be hired?

21 A I did not have the original contact with, with Bob
22 Thompson.

23 Q Do you have knowledge as to whether or not he had
24 classical musical -- classical --

25 A I --

1 Q -- music knowledge?

2 A I have no knowledge.

3 Q James B E B O, Bebo?

4 A I remember James Bebo. I have no idea if he did or
5 did not have knowledge of classical music and I did rec--

6 Q Lucy Walker?

7 A The same thing. I did recommend those two. "The
8 same thing" meaning I had no knowledge of whether she did or
9 did not.

10 JUDGE STEINBERG: Pardon me?

11 MR. HONIG: I can't hear the witness's testimony.

12 JUDGE STEINBERG: He has no knowledge as to whether
13 any of the individuals I've mentioned had classical music
14 knowledge.

15 BY JUDGE STEINBERG:

16 Q Glynelle Wells?

17 A I don't believe I was the first contact with her,
18 but nevertheless I don't know if she did or did not.

19 Q Carolyn Miller.

20 A I don't know Carolyn Miller.

21 Q Frank Wood?

22 A I don't recall that name either.

23 MR. ZAUNER: Your Honor, I have no further ques-
24 tions of this witness.

25 MS. SCHMELTZER: Your Honor, we have no redirect.

1 JUDGE STEINBERG: Okay. No redirect. I guess
2 you're excused, but you're still under the sequestration
3 order. Ms. Schmeltzer or Mr. Gottfried will tell you when you
4 can talk again.

5 MR. GOTTFRIED: Thank you, Your Honor.

6 MS. SCHMELTZER: Thank you. What time do you want
7 to resume? It will be with Mr. Cleary.

8 JUDGE STEINBERG: Two? Forty minutes enough?
9 Let's go off the record.

10 (Off the record.)

11 (On the record.)

12 MR. HONIG: First, I, I have a summer clerk that
13 wants to sit in and I wonder if, if you -- from, from, from
14 the Institute for Public Representation at Georgetown. Can he
15 sit second chair if he's not going to have --

16 JUDGE STEINBERG: No problem.

17 MR. HONIG: -- say anything. I, I'd like him to
18 sit here.

19 JUDGE STEINBERG: No problem.

20 MR. HONIG: Okay. His name is Eric Williams.
21 He'll be here this afternoon.

22 JUDGE STEINBERG: Do you want to enter an appear-
23 ance and that way he can, he can see his name on an ID at some
24 point -- actually, it wouldn't because he's not --

25 MR. HONIG: No. He's not a lawyer yet. And, also,

1 do you have any rules concerning whether there is a gag order
2 or whether there is anything relating to statements or docu-
3 ments that are or are not to be provided or shared under
4 request to the press?

5 JUDGE STEINBERG: As far as I'm concerned this is
6 still a free country. We still have a First Amendment, which
7 I'm sure the reporter is very glad to hear me say that, al-
8 though he's trying, trying his best to keep awake. You, you
9 can say anything you want to anybody you want except the
10 witnesses. That's the only -- under the sequestration order
11 the witnesses can't talk among themselves until, you know,
12 until the proceeding has, has, has been completed. Of course,
13 there is a possibility of redirect -- not redirect, of sur-
14 rebuttal and I really would prefer the witnesses don't speak
15 with each other. But you can say anything you want to anybody
16 you want, provide him with any documents you want. It doesn't
17 bother me. Just make sure my name is spelled right.

18 MS. SCHMELTZER: I have one matter, Your Honor, I'd
19 like to just apprise you of and any other Parties. Ms. Zika
20 is here in town but she fell and broke her breast bone in the
21 last week or two and she is on medication. And I just want
22 the Parties to know that she is not in greatest shape --

23 JUDGE STEINBERG: What --

24 MS. SCHMELTZER: -- but she is planning to testify.

25 JUDGE STEINBERG: When, when she testifies, bring

1 that out on direct, including the name of the medication --

2 MS. SCHMELTZER: Okay.

3 JUDGE STEINBERG: -- and the -- and dosage, and
4 then we can all pick up our PDR's, Physicians' Desk References
5 and see what the side effects of that are with respect to
6 memory and awareness, et cetera, et cetera.

7 MR. HONIG: I'm only going to have about five to
8 six questions for her, so I'll go easy.

9 MS. SCHMELTZER: Okay.

10 JUDGE STEINBERG: Okay. Let's, let's go off the
11 record.

12 (Whereupon, at 1:23 p.m. on Monday, June 20, 1994,
13 the hearing adjourned for the lunch recess, scheduled to
14 reconvene at 2:15 p.m.)
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1 A F T E R N O O N S E S S I O N

2 JUDGE STEINBERG: Let me, let me just -- why don't
3 you just stand up and I'll --

4 MR. CLEARY: Sure.

5 JUDGE STEINBERG: -- swear you in. Raise your
6 right hand, please?

7 Please be seated. And for the record, could you
8 state your name and address and phone number.

9 MR. CLEARY: Residence or business?

10 JUDGE STEINBERG: It doesn't matter. Wherever,
11 wherever, wherever anybody can get a hold of you.

12 MR. CLEARY: Peter James Cleary, 271 Madison
13 Avenue, New York, New York, 10016.

14 JUDGE STEINBERG: And what's your business phone
15 number there?

16 MR. CLEARY: (212) 532-1900.

17 JUDGE STEINBERG: See, I assumed it was your busi-
18 ness because I don't know many people who live on Madison
19 Avenue. I suppose you could if you wanted to.

20 Okay. Ms. Schmeltzer?

21 MS. SCHMELTZER: Yes, Your Honor. There's one
22 thing I'd mark for identification as Church Exhibit 5, the
23 Testimony of Peter J. Cleary. This is a seven -- six-page
24 Declaration and the seventh page is actually Mr. Cleary's
25 signed signature page.

1 JUDGE STEINBERG: Okay. The document described
2 will be marked for identification as Church Exhibit 5.

3 (Whereupon, the document referred
4 to as Church Exhibit No. 5 was
5 marked for identification.)

6 Whereupon,

7 PETER JAMES CLEARY
8 having first been duly sworn, was called as a witness herein
9 and was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MS. SCHMELTZER:

12 Q Mr. Cleary, do you have a copy of Church Exhibit 5
13 in front of you?

14 A I do.

15 Q Okay. And do you have any changes or corrections
16 to your Testimony?

17 A I do not.

18 Q Okay. Is your Testimony true and correct to the
19 beset of your knowledge, information, and belief?

20 A It is.

21 MS. SCHMELTZER: I move the receipt of Church
22 Exhibit 5 into evidence.

23 JUDGE STEINBERG: Mr. Honig?

24 MR. HONIG: May I have voir dire?

25 JUDGE STEINBERG: Sure.